

## Draft Decision Notice

### National Forests in Florida Revised Land and Resource Management Plan Amendment to reassign Management Areas on the Ocala National Forest (Amendment 12)

USDA Forest Service

National Forests in Florida, Ocala National Forest  
Lake, Marion and Putnam Counties, Florida

December 2016

**About this document:** *This unsigned draft decision notice documents the current intention of the US Forest Service to approve proposed changes to the forest plan, explains the rationale for this draft decision and describes how the proposed amendment complies with relevant laws and regulations. Changes in management direction for the National Forests in Florida must comply with US Forest Service regulations for land management planning found at 36 CFR 219. Specifically, this draft decision notice is subject to public objection procedures in 36 CFR 219 Subpart B; a final decision notice will be issued following resolution of any objections received during a 45-day objection period that will begin with a legal notice published in the Ocala Star Banner. The objection procedures are described below and in documents available on the project website (<http://www.fs.usda.gov/project/?project=48051>). For additional information concerning this project or the public involvement procedures, contact Matthew Trager at [mdtrager@fs.fed.us](mailto:mdtrager@fs.fed.us) or by phone at (850) 523-8582.*

## **Decision and rationale**

I have decided to authorize the following changes to the 1999 National forests in Florida Land and Resource Management Plan (i.e., forest plan):

- 1) Redesignate 51,850 acres from Management Area (MA) 8.2 (Sand Pine, Mixed Regeneration, Moderate Openings) to Management Area 8.4 (Scrub-Jay Management Area). Of this total area, 44,706 acres are currently scrub vegetation and the rest is interspersed prairies, lakes and pine flatwoods.

The need for reassigning Management Areas is clearly linked to forest plan goals and objectives (Final EA p. 9-10). Specifically, conflicts between managing for sand pine silviculture and open scrub habitat have resulted in failure to meet the forest plan objective of providing 45,000-55,000 acres of Florida scrub-jay habitat. By reassigning ~52,000 acres from MA 8.2 (Sand Pine, Mixed Regeneration, Moderate Openings) to MA 8.4 (Scrub-jay Management Area), the Ocala National Forest will resolve this conflict by clarifying management priorities while continuing to provide for multiple uses across the forest.

- 2) Revise the desired future condition of MA 8.4 and the related forest plan guideline 8.4-4.

The need for revising the desired condition of MA 8.4 and the guideline describing vegetation management is based on improved understanding of scrub vegetation dynamics on the forest and scientific studies on the relationship between vegetation structure and Florida scrub-jay habitat use and reproduction. Incorporating the best available scientific information into the description of desired conditions and management actions for these areas should result in improved management.

- 3) Add a newly discovered species, scrub pigeon wing, to the federally listed plants that occur on the Ocala National Forest and describe appropriate management considerations.

Two populations of this species were discovered in 2014 and consultation with the USFWS was completed in 2015. Incorporating this species into the forest plan is required by Forest Service planning and NEPA regulations regarding consideration of new information.

- 4) Change forest plan direction regarding protection of eastern indigo snakes (standard WL-10).

This change reflects new guidance from the USFWS regarding eastern indigo snake protection. Incorporating this language into the forest plan is required by Forest Service planning and NEPA regulations regarding consideration of new information.

The replacement pages in Appendix 1 show how these changes will be incorporated into the forest plan.

I have reviewed the Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the proposed amendment, and the analysis therein is incorporated by reference into this Draft Decision Notice. The EA included relevant information on a range of resource areas, but focused on those identified internally or by the public as most likely to be affected by the changes to the forest plan. The analyses in the EA and accompanying Biological Assessment (BA) were based on the best available scientific information for the area, including experience managing vegetation on the Ocala National Forest, consultation with state and other federal agencies and published scientific papers on scrub ecology. The introduction and analysis sections of the EA clearly show the importance of historical habitat information, management trends and research results for developing and analyzing the effects of this forest plan amendment.

The EA focused on potential effects of the proposed management changes on Florida scrub-jays and other rare species. Providing large areas of high-quality habitat for the Florida scrub-jay was the primary need for this project, and I have determined that this amendment will provide management direction necessary to achieve that goal. The EA and BA disclose potential effects on some species resulting from activities such as timber harvest, prescribed fire and mechanical vegetation management. However, creating and maintaining thousands of acres of open scrub habitat will clearly benefit imperiled Florida scrub habitats as well as the many rare species that prefer or are found exclusively in this ecosystem.

The Ocala National Forest is committed to providing for multiple uses of forest resources. I have determined that this amendment is consistent with a balanced approach to conservation, recreation and continued sand pine timber management. After the reassignment of ~52,000 acres from MA 8.2 to MA 8.4, the forest will still manage ~140,000 acres primarily for commercially valuable sand pine with creation of open scrub habitat as a secondary objective resulting from timber harvest. The effects of this amendment on timber harvest are discussed on p. 60 of the Final EA.

### **Public involvement**

A detailed description of public involvement for this project is available in the Final EA (p. 21-22) and comments are summarized in Appendix 1 of the Final EA (p. 72-78). Development of this forest plan amendment included two public comment periods and a total of 12 comments were received (10 during the designated comment periods). In general, comments were supportive of the overall goal to increase open scrub habitat, and many specific concerns have been addressed through additional analysis, modifications to the proposed action following project scoping and implementation requirements described below.

### **Findings required by other laws and regulations**

US Forest Service regulations for implementing the National Environmental Policy Act (NEPA) and forest planning procedures under the National Forest Management Act (NFMA) require that decisions include “findings required by other laws and regulations applicable to the decision (36 CFR 220.7(c))” and that “plans must comply with all laws and regulations, including the NFMA, MUSYA, the Clean Air Act, the Clean Water Act, the Wilderness Act, and the Endangered Species Act” (36 CFR 219.1(f)). In general, because existing plans already comply with these requirements, decisions for plan amendments must only demonstrate compliance related to the proposed changes to management direction.

US Forest Service planning regulations state that “Plan amendments may be broad or narrow, depending on the need for change, and should be used to keep plans current and help units adapt to new information or changing conditions” (36 CFR 219.13(a)). As described in the Final EA, the scope of this amendment was spatially extensive but focused on very specific activities within scrub habitats on the Ocala National Forest. The proposed amendment was developed to better achieve forest plan goals and objectives by changing management direction to benefit Florida scrub-jays and other open scrub habitat species. Therefore, most of the potential effects of this change have previously been disclosed in the forest plan Final Environmental Impact Statement and Record of Decision (available on the National Forests in Florida website or upon request). The FONSI briefly describes the relationship between this amendment and potential effects on a range of resources protected by federal law or executive order, concluding that implementing the changes will not result in significant environmental effects beyond those already considered in the forest plan. Therefore, this section focuses on the procedural and content requirements of laws and regulations directly relevant to the subjects of this amendment, namely NEPA, Endangered Species Act of 1973 (ESA) and the 2012 US Forest Service regulations for implementing the planning requirements of NFMA (i.e., the 2012 planning rule at 36 CFR 219).

**National Environmental Policy Act** – Project documentation and public involvement complied with requirements in the Council for Environmental Quality’s NEPA regulations (40 CFR 1500-1508) as well as agency-specific regulations (36 CFR 218, 36 CFR 220). In addition to meeting specific requirements of these regulations, development of the proposed amendment meets the purpose of NEPA to “help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment” (1500.1(c)). Based on the analysis presented in the Final EA and FONSI, I have determined that this action will not have significant effects on the human environment and, therefore, will not require preparation of an Environmental Impact Statement.

Future proposals to implement land management activities related to this forest plan amendment will require documentation and public involvement to comply with NEPA regulations and US Forest Service procedures.

**Endangered Species Act**– Implementing the reasonably foreseeable activities described in this forest plan amendment will contribute to the National Forests in Florida’s obligations under the ESA to contribute to the conservation and recovery of listed species. Formal consultation with the US Fish and Wildlife Service satisfies procedural requirements under ESA Section 7(a)(1) and 7(a)(2). Implementation of activities to achieve the objectives of this amendment will be conducted following the non-discretionary terms and conditions provided by the US Fish and Wildlife Service in their June 14, 2016 Biological Opinion. The implementation direction at the end of this document describes how the non-discretionary terms and conditions of the BO will be incorporated into implementing land management projects to meet the objectives of this amendment.

**National Forest Management Act**–This amendment to the National Forests in Florida Land and Resource Management Plan was prepared under the 2012 planning rule (36 CFR 219) Amended procedures regarding requirements for plan amendments were published in the Federal Register (81 Fed. Reg. 241,December 15, 2016, p. 90723-90739) and are incorporated here. Although the current forest plan was revised under an earlier planning rule, it must comply with the procedural provisions of the 2012 planning rule and meet the directly related substantive requirements in 36 CFR 219.8-219.11.

The relevant procedural provisions are the following: using the best available scientific information to inform the planning process (§ 219.3), providing opportunities for public participation (§ 219.4), the applicable format for plan components (§ 219.7(e)), the plan amendment process (§ 219.13), including specific information in a decision document (§ 219.14), stating whether or not projects authorized at the time of amendment may continue without change (§ 219.15(a)), giving public notice (§ 219.16), setting the effective date for amendments (§ 219.17), and providing an objection opportunity (subpart B). As described in the Final EA, FONSI and this document, this plan amendment has complied with these procedural provisions.

The 2012 planning rule requires documentation of how the best available scientific information was identified, the basis for that determination and how it was applied to the issues considered (36 CFR 219.3). For this project, the need for management changes and the proposed plan amendment were based on site-specific data on past management and current habitat conditions from the Ocala National Forest as well as published research on ecology and management of Florida scrub and Florida scrub-jays. Specifically, as described in the Final EA, recent monitoring of the relationship between habitat quality and Florida scrub-jay density conducted by Karl Miller and others showed that open scrub habitat has declined faster than previously expected (9-10yr instead of 12yr), particularly in stands that were seeded with sand pine after timber harvest. These site-specific monitoring results were considered in the context of a recent

statewide status review of the Florida scrub-jay (which also contained a synthesis of management recommendations) as well as scientific papers examining scrub and scrub-jay management from other sites in Florida. We also consulted with scientists and land managers from the Florida Fish and Wildlife Conservation Commission and the US Fish and Wildlife Service regarding the best scientific information relevant to managing scrub in the Ocala National Forest. Citations for reports and scientific papers described here are in the reference lists of the Final EA and the Biological Assessment (both available on the project website).

The December 15, 2016 amendment to the 2012 planning rule requires that decision documents for plan amendments must describe “which specific requirements within §§ 219.8 through 219.11 apply to the amendment and how they were applied” (§ 219.14(c)(2)). I have reviewed the scope and scale of this amendment, as well as the substantive requirements of the 2012 planning rule, and determined that the following are relevant for this plan amendment because the proposed changes effect resources discussed within these sections:

**219.8(a)(1) – Sustainability, Ecological sustainability, Ecosystem integrity**

The terrestrial ecosystem components of this section are relevant to the proposed amendment because the management changes would affect the structure, function, composition and connectivity of scrub habitats. Additionally, the proposed amendment encourages the use of fire to restore fire-adapted habitats and reduce risk of catastrophic wildfire. Based on the background material (Ch. 1) and analysis in the EA (Ch. 3), I have determined that this amendment complies with the requirements of this section.

**219.8(b) – Sustainability, Social and economic sustainability**

The proposed amendment does not change any forest plan components directly related to social and economic sustainability. Reassigning management areas from one suitable for timber production (MA 8.2) to one unsuitable for timber production (MA 8.4) will reduce the area of sand pine timber that contributes to the local economy. However, as is disclosed in the EA on pages 60-61, the reduction in the lands suitable for timber production is not expected to reduce the acres of sand pine harvested or volume of timber sold. Based on this analysis, I have determined that this amendment complies with the requirements of this section.

**219.9(a) Diversity of plant and animal communities, Ecosystem plan components, (1) Ecosystem integrity and (2) Ecosystem diversity**

The primary need for the proposed amendment was to provide management direction to increase the quantity and quality of open scrub



habitats that many rare species prefer. The amendment would modify “Ecosystem plan components” to promote restoration and maintenance of this imperiled and diverse habitat throughout the Ocala National Forest. Implementation of the amendment will increase ecosystem diversity by expanding the area of open scrub, which will result in large increases in suitable habitat for the Florida scrub-jay and other rare species. The current forest plan language includes species-specific components that meet the requirements of 219.9(b). Based on communication with the Florida Fish and Wildlife Conservation Commission, continued discussions with the US Fish and Wildlife Service and analysis in the Final EA and BA, I have determined that the proposed amendment will promote the diversity of plant and animal communities and the persistence of native species within the plan area.

#### 219.10(a) Multiple use, Integrated resource management for multiple use

The effects of the proposed amendment on timber harvest and contributions to the local economy are described above; otherwise, the management changes will not affect forest plan components directly related to uses such as recreation, heritage values, wilderness or access. The Final EA (p. 60-62) briefly discussed these resource areas. Based on that analysis, I have determined that the proposed amendment is consistent with the multiple use requirements in the 2012 planning rule

#### 219.11 Timber requirements based on the NFMA

The 2012 planning rule describes required plan components related to timber management, including determining suitability for timber production and limitations on timber harvest. The 1999 Revised Land and Resource Management Plan identified Management Area 8.4 as not suitable for timber production because harvest and reforestation for future harvests is not compatible with achieving the desired conditions and objectives of creating and perpetuating open scrub habitat. This determination aligns with factors described in § 219.11(a)(iii) of the 2012 planning rule and is not changed by the current amendment. However, existing marketable-aged sand pine is expected to be harvested from areas proposed for reassignment from MA 8.2 to MA 8.4. The planning rule describes such activities as “Timber harvest for purposes other than timber production” (§ 219.11(c)). After harvest, these areas would not be reforested and will be maintained with mechanical vegetation management and prescribed fire to perpetuate desired conditions.

This forest plan amendment would reduce the land considered suitable for timber production by ~45,000ac (since not all of the ~52,000ac area proposed for reassignment to MA 8.4 is currently suitable due to

interspersed wetlands and other cover types). Despite the reduction in lands considered suitable for timber production, this amendment will not result in decreased timber harvest capacity of the Ocala National Forest (See also the discussion of “Sustainability, Social and economic sustainability” requirements above).

This forest plan currently describes limits on clearcutting in MA 8.2 that meet the requirements of § 219.11(d) of the 2012 planning rule, namely that individual clearcuts or temporary openings may be up to 800 contiguous acres. Timber harvest in MA 8.4 is not “designed to regenerate an even-aged stand of timber” (§ 219.11(d)(4)); therefore, the maximum opening size limits for clearcuts described in § 219.11(d)(4) do not apply to this Management Area. As such, the contiguous area of open habitat in MA 8.4 may be as large as necessary to meet desired conditions of that management area as long as the timber harvest is “consistent with the protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources” (§ 219.11(d)(3)). This is not a change from current plan direction, simply a clarification of the intent for timber harvest in MA 8.4 related to requirements of the 2012 planning rule.

In summary, I have considered the substantive requirements of sections 219.8 through 219.11 of the 2012 planning rule, identified those directly relevant for the proposed forest plan amendment, and concluded that the amendment has met or is consistent with those requirements. Furthermore, I have also reviewed the substantive requirements in sections 219.8 through 219.11 that are not directly relevant to the amendment and have concluded that the changes in management direction are not contrary to these requirements.

All future projects and activities must be consistent with the amended forest plan unless they propose a project-specific amendment. The 2012 Planning Rule consistency provisions at 36 CFR 219.15(d) apply only to the plan components added or modified under the 2012 Planning Rule; with respect to other plan provisions, the Forest Service's prior interpretation of consistency applies, namely that projects need only be consistent with plan standards and guidelines (see FSH 1909.12, ch. 20, sec. 21.33).

### **Opportunity for administrative review**

Forest plan amendments are subject to administrative review of the project in response to public objections. These procedures are described in Forest Service planning regulations at 36 CFR 219 Subpart B. The opportunity to object to the proposed forest plan amendment ends 45 days following the date of publication of a legal notice in the Ocala Star Banner. The publication date of the legal notice is the exclusive means for calculating the time to submit an objection. Only individuals who submitted substantive



formal comments during the project scoping period or 30-day notice and comment period are eligible to object to the draft decision (listed in Appendix 1 of the Final EA).

Objections must be written and include the following minimum content requirements: 1. Objector's name and address (also telephone number and email if available, noting preferred method of contact), 2. Signature or other verification of authorship upon request, 3. Identification of the lead objector if multiple names are listed, 4. The name of the plan amendment (NFFL Forest Plan Amendment 12) and name and title of the responsible official (Kelly Russell, Forest Supervisor), 5. A statement identifying the issues or parts of the plan amendment to which the objection applies, 6. A concise statement explaining the objection and how the project may be improved, including reference to law, regulation or policy if applicable and 7. A statement that demonstrates the link between earlier substantive comments made by the objector and the content of the objection, or description of objection issues that arose after earlier opportunities for formal comments. Objectors are responsible for meeting the content and timing requirements in 36 CFR 219.54-56. All objections received, including the names and contact information of commenters, will be part of the public record for this project.

Objections for this project will be reviewed by the Regional Forester, Tony Tooke. We encourage electronic submission of objections. Objections in a common digital format (e.g., attached MS Word document, plain text or pdf file, or in the body of the email) may be emailed to [objections-southern-regional-office@fs.fed.us](mailto:objections-southern-regional-office@fs.fed.us) with "NFFL Forest Plan Amendment 12" as the subject. Objections may also be submitted through the project website at <http://goo.gl/1Ze7Xq> by following the link "Comment/Object on Project." Hard-copy objections may also be submitted to Tony Took, Regional Forester, by mail (Attn: Objections, USDA Forest Service Southern Region, 1720 Peachtree Rd NW, Atlanta GA 30309) or fax (404-347-5401). Hand-delivered objections must be received at the address above during normal business hours of 7:30 a.m. to 4:00 p.m. Monday to Friday, closed on federal holidays. The content requirements above apply to all methods of submitting objections.

### **Implementation timeline and direction**

The decision for this proposed amendment will not be issued until any objections received are resolved following procedures in 36 CFR 219.56-57. If objections are received, a legal notice will be published in the Ocala Star Banner and posted on the project website. Following meeting with the objector (if desired) and the Regional Forester Tony Tooke's review of issues raised in the objection, I will make the final decision on the proposed amendment to the National Forests in Florida's forest plan. If no objections are received, a decision may be signed the fifth business day after the end of the objection period. Upon my decision, the approved components of the amendment will be effective immediately.

The changes in management direction apply to all previously approved or currently proposed land management activities in areas redesignated as Management Area 8.4.

For example, if sand pine harvest has already been authorized within one of the new scrub-jay management areas, this activity may be implemented but the stand would not be reforested. Similarly, stands in these areas that have been harvested in the recent past (~15yr or less) and are becoming less suitable for Florida scrub-jay habitat should generally be managed for open scrub conditions with mechanical methods and prescribed fire rather than waiting for a commercial timber harvest. Changes to previously approved activities outside the scope of the original proposal and analysis must follow agency policies for new information or changed circumstances.

The Biological Opinion included non-discretionary terms and conditions to assure that potential adverse effects are within the limits of the incidental take permit. Terms and conditions 2, 3 and 4 were either already present in the forest plan or were incorporated into the MA 8.4 desired conditions or standards. Additionally, the following monitoring and reporting requirements (Terms and conditions number 1, BO p. 37) shall be completed beginning the fiscal year following approval of this forest plan amendment:

Submit an annual report by October 31 regarding information on treatment and management actions conducted the previous year in MA 8.4. Information includes:

- a. Number of acres burned during the Florida scrub-jay nesting season ("ONF specific" nesting dates are March 15 to July 15) and non-nesting season in suitable, but waning, Florida scrub-jay habitat as indicated by vegetation structure or age, (usually 10-12 years post-harvest),
- b. Total number of scrub acres in MA 8.4 burned,
- c. Number of acres chopped in suitable, but waning, Florida scrub-jay habitat as indicated by vegetation structure or age, (usually 10-12 years post-harvest),
- d. Total number of acres chopped,
- e. Total number of acres of sand pine harvested and,
- f. Total area within MA 8.4 that is suitable Florida scrub-jay breeding habitat as indicated by appropriate vegetation structure or, when this information is not available, age (3-12 years following harvest, fire, or chopping).

This report should include similar information for MA 8.2 and scrub habitat in other Management Areas (e.g., Juniper Prairie, Pinecastle Bombing Range).

Based on the information and implementation direction provided in this document, I authorize the proposed changes to the National Forests in Florida forest plan.

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KELLY RUSSELL

Date

Forest Supervisor, National Forests in Florida

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Replacement page 3.18 – Add the following language before VG-3:

**Scrub pigeon wing.** This threatened species is a long-lived perennial herb that is known only from high pine and scrub habitats on central Florida ridges. Forest Plan direction is consistent with the management considerations described for this species in the Multi-species Recovery Plan for South Florida (USFWS 1999).

Replacement page 3.28 – Replace standard WL-10 with the following:

WL-10 – Follow the most recent US Fish & Wildlife Service policy for eastern indigo snake protection. This includes the following actions for land management activities: All personnel, contractors or cooperators involved in prescribed fire, timber harvest or other vegetation management activities will be educated on eastern indigo snake identification and receive the USFWS brochure on the species.

**IF YOU SEE A LIVE EASTERN INDIGO SNAKE ON THE SITE:**

- Cease clearing activities and allow the live eastern indigo snake sufficient time to move away from the site without interference;
- Personnel must NOT attempt to touch or handle snake due to protected status.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Immediately notify supervisor or the applicant's designated agent, and the appropriate USFWS office, with the location information and condition of the snake.
- If the snake is located in a vicinity where continuation of the clearing or construction activities will cause harm to the snake, the activities must halt until such time that a representative of the USFWS returns the call (within one day) with further guidance as to when activities may resume.

**IF YOU SEE A DEAD EASTERN INDIGO SNAKE ON THE SITE:**

- Cease clearing activities and immediately notify supervisor or the applicant's designated agent, and the appropriate USFWS office, with the location information and condition of the snake.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Thoroughly soak the dead snake in water and then freeze the specimen. The appropriate wildlife agency will retrieve the dead snake.

Replacement page 4.47 – Replace desired condition description with the following:

#### 8.4 – Desired Future Condition

In this area, vegetation patterns consist of a mosaic of oak scrub patches. The patches are dominated by scrub oak cover of different heights, low sand pine cover, and many small areas of open bare ground. The oak layer is less than 9 feet tall over most of the area and scattered areas of older habitat occur rarely across the landscape. Young, short scrub habitat is adjacent to older, taller scrub habitat that is decreasing in habitat quality for scrub-jays. Commercial timber harvests may occur within this area as merchantable sand pines are harvested for a final time. Mechanical treatment may occur after harvest as pre-burn fuel preparation technique or as a stand-alone treatment where application of fire is not advisable. Prescribed burning operations can be initiated whenever the habitat conditions begin to degrade. After an initial rotation, burns may become patchier as areas of open, bare ground prevent complete fuel consumption over the entire burn block. Patch sizes are generally governed by the presence of effective burning boundaries.



Replacement page 4.48 – Replace standard 8.4-4 with the following:

8.4-4 – After clearcutting, prescribe burn the area to start natural regeneration of scrub oak. Prescribe burn to maintain open scrub conditions when the vegetation has grown so tall or dense that its quality as scrub-jay habitat is degraded. Do not roller-chop or use other large-scale mechanical vegetation treatment in waning Florida scrub-jay breeding habitat (as indicated by vegetation structure) during the March 15 to July 15 breeding season.